

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Nation Analyst: Jane Tolman Bill Number: AB 1968
Related Bills: See Legislative History Telephone: 845-6111 Introduced Date: 02-14-2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/Energy Conservation Rebates, Vouchers, Or Other Financial Incentives

SUMMARY

This bill would exclude from taxation any type of rebate for the purchase of energy-producing systems.

PURPOSE OF THE BILL

The author's staff has indicated that the purpose of the bill is to encourage energy conservation.

EFFECTIVE/OPERATIVE DATE

The bill is a tax levy and would be effective immediately upon enactment. It would apply to taxable years beginning on or after January 1, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws do not generally tax rebates, vouchers, or similar incentives, such as the types covered in this bill, as they are regarded as adjustments to the purchase price of the property. However, the cost of the property for expensing or depreciation purposes would be reduced by the amount of the rebate.

Existing federal and state law allows taxpayers to exclude from gross income any subsidy provided (directly or indirectly) by a public utility to customers for the purchase or installation of any energy conservation measure. An "energy conservation measure" is any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand in a dwelling unit as defined by federal law.

Existing state law also provides that a rebate from a local water agency or supplier for the purchase or installation of a water conservation water closet or urinal shall be treated as a refund or price adjustment.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

4/8/02

THIS BILL

This bill would exclude from gross income any amount received as a rebate, voucher, or other financial incentive issued by the California Energy Commission or Public Utility Commission for the purchase of a thermal energy system, a solar energy system, or a wind energy system.

IMPLEMENTATION CONSIDERATIONS

Since rebates, vouchers, or other financial incentives are not taxable, this bill will not affect the department. However, enacting a statute that expressly states that a rebate is nontaxable, could be confusing for the taxpayer with regard to their past filing practices because this bill implies that rebates were taxable in the past. The department is available to assist with amendments.

LEGISLATIVE HISTORY

AB 952 (Kelley, Stats. 2001, Ch. 212) excludes from gross income any amount received as a rebate from a local water agency or supplier for the purchase of a conservation water closet.

SBXX 17 (Brulte, Stats. 2001, Ch. 12) allows a credit for the purchase and installation of a solar energy system.

OTHER STATES' INFORMATION

Review of *Illinois*, *Massachusetts*, *Michigan*, *Minnesota*, and *New York* laws found no comparable exclusions from gross income.

Massachusetts and *New York* offer a credit for either solar energy devices or energy conservation devices. *Michigan* does not allow an energy-related credit, but exempts the value of energy conservation devices from the local property tax.

These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in negligible revenue losses of less than \$250,000 annually beginning in 2002-03. Under present law, most individual taxpayers treat rebates, vouchers, and other financial incentives as a refund or price adjustment. Business taxpayers receiving a rebate should reduce their deductible expenses by the amount of any financial incentive.

Tax Revenue Discussion

The revenue impact of this bill would be determined by the amount of financial incentives provided by either the California Energy Commission or the Public Utility Commission for specified devices, and marginal tax rates of taxpayers receiving such financial incentives and reporting the value in gross income on a self-reporting basis.

Over a four-year period (1998-2001), the California Energy Commission provided rebates to owners of devices specified in the bill totaling approximately \$29 million. This averages about \$7.3 million per year. Literature published by the Energy Commission advises customers to consult their tax professional or the Internal Revenue Service for information regarding the taxation of such financial incentives.

LEGISLATIVE STAFF CONTACT

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